

JUN 13 2001



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In re Application of
HICKS, Debra L. et al
U.S. Application No.: 09/230,275
PCT No.: PCT/US97/13321
Int. Filing Date: 23 July 1997
Priority Date: 24 July 1996
Attorney's Docket No.: 5093
For: CHOLESTEROL SEPARATION AND
FLUORESCENT ANALYSIS

: DECISION ON
:
:
: RENEWED
:
: PETITION
:
: UNDER 37 CFR 1.81

This decision is in response to the "RENEWED PETITION UNDER 37 CF 1.181 TO WITHDRAW NOTIFICATION OF ABANDONMENT" filed on 12 June 2000.

BACKGROUND

In a decision from this Office dated 22 May 2000 petitioner's initial petition to withdraw notice of abandonment was dismissed. The reason was that applicant failed to establish the failure to receive an Office communication because item 3 of the requirement under section MPEP 711.03(c) was not satisfied: applicant did not provide a copy of the docket record(s) where the nonreceived Office communication would have been entered had it been received and docketed.

DISCUSSION

On 12 June 2000, applicant filed this renewed petition, together with copies of docket records(exhibits 1-8) of the above captioned-application.

A review of the renewed petitions reveals that petitioner has still not complied with the requirements set forth in section 711.03(c) specifically item 3, which requires a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed. Petitioner's computer printout submission (exhibits 1-8) of the docket history of the above application by itself is insufficient to establish failure to receive

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the Office communication without any corroborating evidence, e.g., a log showing the mailed received during the time period where the nonreceived Office action would have been entered had it been received or a tickler sheet for 07 August 1999. In other words, to establish a showing nonreceived of the Notification of Missing Requirements would require, at a minimum, a copy of docket or mailroom records of the mailed received within the time period that the nonreceipt Office action would have been received or a copy of the docket report showing the replies docketed for a date of one month from the mail date of the nonreceived Office action.

Accordingly, petitioner has not yet met the requirements under MPEP section 711.03(c) to establish nonreceipt of an Office action, and the withdrawal of abandonment of the above captioned- application at this time is not appropriate.

DECISION

In view of the above, the petition is **DISMISSED** without prejudice.

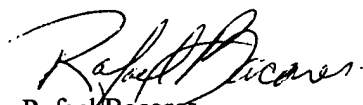
The above-captioned application remains **ABANDONED**.

If reconsideration of the merits of the petition under 37 CFR 1.181 is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the PCT Legal Office.



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